HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.21561 of 2007

Dated:12-11-2007

Between:

Are Kishan and others.

..... Pet

AND

The State of A.P., rep by
District Collector,
Karimnagar,
And others.

..... Respc

Counsel for the petitioners : Sri S.Satyam Reddy

Counsel for the respondents : A.G.P. for Land Acquisition.

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.21561 of 2007

O R D E R:

This writ petition is filed for a writ of mandamus to declare the action of respondent No.1 in seeking to acquire the lands belonging to the petitioners under notification dated 15.11.2006 issued under Section 4(1) of the Land Acquisition Act 1894 (for short "the Act") as illegal and arbitrary.

The main contention of Sri S.Satyam Reddy, learned counsel for the petitioners is that the petitioners belong to poorer section of the society and they will not be left with any other land if the respondents acquire the lands which are already notified. He further stated that Kamaanpur village does not come within the limits of Municipal Corporation of Karimnagar for whose inhabitants the lands are sought to be acquired for providing house sites. He therefore termed the proposal to acquire the petitioners' land as wholly arbitrary and colourable exercise of power. The learned counsel laments that the petitioners are subjected to second acquisition as on an earlier occasion their properties were acquired for construction of Lower Manair dam. He also submitted that on an earlier occasion a notification was issued and evidently to avoid acquisition of the lands belonging to one N.Lingamma, a rich pattadar, the said notification was withdrawn and the present notification was issued.

No counter affidavit has been filed. However, learned Assistant Government Pleader for Land Acquisition submitted that since enquiry under Section 5A of the Act has not been dispensed with, the petitioners may be given liberty to file their objections and that the respondents would objectively consider the same and take a decision thereon.

I have carefully considered the respective submissions of the learned counsel. Undoubtedly, providing house sites to people belonging to weaker sections of the society is a laudable object. But in the anxiety of the State or its Officers to implement such a scheme, they cannot deny poorer sections of the society their valuable property unless they

are compelled to do so on account of factors such as non-availability of alternative land. If what the learned counsel for the petitioners says is correct, the respondents cannot embark upon denying the small extents of lands allegedly owned by the petitioners in order to provide house sites to another poorer section of the society. The learned counsel expressed his apprehension that even if the petitioners are made to approach the respondents by filing objections in the enquiry, respondents may not seriously consider the same. Though it cannot be said that this apprehension of the learned counsel is wholly without any basis, but I have no reason to believe that the respondents are really bent upon acquiring the lands of the petitioners if it comes out in the enquiry that alternative lands are available which can be conveniently put to use for providing house sites to other weaker sections of the society.

Therefore, without going into the merits of the case, the writ petition is disposed of in the following terms:

1. The petitioners shall file their objections to the proposed acquisition within a period of two weeks.
2. The Land Acquisition Officer – respondent No.2 shall objectively consider the objections by affording the petitioners an opportunity of personal hearing.
3. Respondent No.2 shall dispose of the objections by giving reasons in the event of his disagreement with the objections raised by the petitioners; and
4. Till the completion of enquiry, the petitioners shall not be dispossessed.

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C.V.NAGARJUNA REDDY,J

Date:12.11.2007

Note:
Issue c.c. in three days.
B/o.
mdaa